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MAR 21 2008

HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

Vanessa Johnson  
Acting Clerk  
Hearing Board  
Bay Area Air Quality  
Management District

**BEFORE THE HEARING BOARD OF THE  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

AIR POLLUTION CONTROL OFFICER of the BAY  
AREA AIR QUALITY MANAGEMENT DISTRICT

**DOCKET NO. 3548**

Complainant,

vs,

**CONDITIONAL ORDER  
FOR ABATEMENT**

MASOOD AMINI-FILABAD, *aka* AMINI FILABAD  
and HAMID AMINI, individually, and *d/b/a*  
LIVERMORE BEACON, Site No. C8876

Respondent.

On January 30, 2008, the Air Pollution Control Officer ("APCO") of the Bay Area Air Quality Management District ("District"), Complainant in the above-entitled matter, filed with the Hearing Board an Accusation and Request for Order of Abatement ("Accusation") against Masood Amini-Filabad, *aka* Amini Filabad and Hamid Amini, individually and *d/b/a* Livermore Beacon, Respondent in this matter, to cease and desist from operating its gasoline dispensing facility, Livermore Beacon, until Respondent obtains a valid permit to operate the Facility and is in compliance with the requirements of District Regulation 8, Rule 7, Section 301.

Mr. Masood Amini-Filabad, owner of Livermore Beacon, located at 2620 East Old First Street, Livermore, California, Site No. C8876 ("Facility"), appeared on his own behalf.

Susan Adams, Assistant Counsel, appeared for the Air Pollution Control Officer.

The Clerk of the Hearing Board provided notice of the hearing on the Accusation in accordance with the requirements of the Health and Safety Code. The Hearing Board heard the

1 request for an Abatement Order on March 20, 2008. At the hearing, the District withdrew that  
2 portion of its request in the Accusation for an order that Respondent abate violations of District  
3 Regulation 8, Rule 7, Section 301.

4 The Hearing Board provided the public with an opportunity to testify at the hearing, as  
5 required by the Health and Safety Code. No members of the public testified. The Hearing Board  
6 heard evidence, testimony and argument from the APCO and Respondent.

7 The Hearing Board closed the hearing after receiving evidence, testimony and argument,  
8 and took the matter under submission for decision. After consideration of the evidence, the  
9 Hearing Board voted to issue an Abatement Order, as set forth in more detail below:

#### 10 **BACKGROUND**

11 Volatile organic compounds (“VOCs”) are organic compounds that evaporate quickly  
12 into the atmosphere. VOCs, reacting with oxides of nitrogen in sunlight, create ground level  
13 ozone. Ground level ozone is the primary component of photochemical smog, which is a  
14 significant air quality problem in the Bay Area. Smog aggravates respiratory diseases, reduces  
15 visibility, causes eye irritation, and damages vegetation. One of the common sources of VOCs is  
16 gasoline vapors. Gasoline vapor, which contains hydrocarbons, is an air contaminant. Gasoline  
17 contains benzene, a known carcinogen.

18 District Regulation 2, Rule 1, Section 302 prohibits a person to use or operate any article,  
19 machine, equipment or other contrivance that causes or controls the issuance of air contaminants,  
20 including a gasoline dispensing facility (“GDF”), without first obtaining a District permit to  
21 operate. Respondent’s Livermore Beacon (“Facility”) is a gasoline dispensing facility that  
22 operates seven days a week, twenty-four hours a day.

#### 23 **DISCUSSION**

24 Pursuant to in Health and Safety Code Section 42351(a), the Hearing Board may issue an  
25 order for abatement if it finds that a person is operating a gasoline dispensing facility without a  
26 permit to operate.

27 Respondent stated at the hearing that he has owned the Facility as its sole owner since  
28 1993. The Facility includes three 10,000-gallon gasoline storage tanks and 24 dispensing

1 nozzles. The Facility has had an annual District permit to operate that covers the period of  
2 November 1 through October 31 of the following year. Since at least 1993, the permitted  
3 gasoline throughput limit has been 1.7 million gallons in any consecutive twelve-month period.  
4 Respondent's records stated that the Facility had a gasoline throughput of 1.2 million gallons in  
5 2006. Respondent has not reported the Facility's annual gasoline throughput for any time period  
6 since 2006. Respondent stated at the hearing that currently, his annual gasoline throughput is  
7 approximately 95,000 gallons per year.

8         Currently, Respondent does not have a valid permit to operate the Facility. Since  
9 November 1, 2003, Respondent has failed to maintain a current Permit to Operate. Respondent  
10 admitted that he paid the 2003 – 2004 permit fees in April 2007 and admitted that he owes the  
11 fees for the period of November 1, 2004 until November 1, 2008. The District has calculated the  
12 total amount of permit to operate fees owed is Five Thousand Three Hundred Sixty Dollars and  
13 Twenty-Four Cents (\$5,360.24) for the Permit to Operate fees for the period of November 1,  
14 2004 until November 1, 2008. Specifically, Respondent owes Four Thousand Twenty-Seven  
15 Dollars and Eighty Cents (\$4,027.80) for the years 2004 – 2005, 2005 – 2006, and 2006 – 2007  
16 permits to operate and owes One Thousand Three Hundred Thirty-Two Dollars and Forty-Four  
17 Cents (\$1,332.44) for the current November 1, 2007 until November 1, 2008 permit to operate.  
18 At the hearing, the District introduced into evidence Exhibit C-1, the District's March 19, 2008  
19 letter to Respondent modifying Invoice No. 1RC84, in order to provide the total amount of fees  
20 owed the District, from November 1, 2004 to November 1, 2008. Respondent did not object to  
21 the document being introduced into evidence, and the Hearing Board accepted the document into  
22 evidence.

23         At the hearing, Respondent claimed financial hardship and requested relief from the  
24 reinstatement fee of One Thousand Three Hundred Forty-Two Dollars and Sixty Cents  
25 (\$1,342.60) for the unpaid fees for November 2004 through October 31, 2007. Respondent  
26 stated that his current gross monthly revenue from the Facility is approximately \$80,000 and that  
27 approximately six months ago, the gross monthly revenue was approximately \$90,000.

28         Respondent owns and operates another GDF, located at 1175 Catalina Street, Livermore,

1 California, Site No. C9825. He built that GDF in or about 2003 and began operating it in or  
2 about 2004. He does not have, and has never had, a permit to operate that GDF either. At  
3 approximately the same time he built and began operating the new GDF, he ceased paying the  
4 permit to operate fees for the Facility.

5 The District stated that there are approximately 2,600 permitted GDFs within the District.  
6 Of those 2,600 GDFs, there are approximately twelve GDFs that lack District permits to operate  
7 for multiple years.

8 At the request of the Hearing Board, the District stated that it will conduct a thorough  
9 inspection and investigation of the Facility to identify all potential violations of District rules  
10 and regulations. The District also stated that it would serve a conditional Order for Abatement  
11 personally upon Respondent.

#### 12 **SPECIFIC FINDINGS**

13 The Hearing Board finds that Respondent is the sole owner of the GDF, known as  
14 Livermore Beacon and Livermore Gas, Site No. C8876, and has operated the GDF since 1993.  
15 Respondent is knowledgeable of the District's requirement that a GDF must obtain and maintain  
16 a current District permit to operate.

17 The Hearing Board finds that Respondent is currently operating the GDF without a  
18 District permit to operate, in violation of Regulation 2, Rule 1, Section 302. Respondent has  
19 failed to maintain a current District permit to operate since November 1, 2003. In April 2007,  
20 Respondent paid the fees for a 2003 - 2004 permit to operate.

21 The Hearing Board finds that Respondent owes a total of Five Thousand Three Hundred  
22 Sixty Dollars and Twenty-Four Cents (\$5,360.24) for the Permit to Operate fees for the period of  
23 November 1, 2004 until November 1, 2008. Specifically, Respondent owes Four Thousand  
24 Twenty-Seven Dollars and Eighty Cents (\$4,027.80) for the 2004 - 2005, 2005 - 2006, and 2006  
25 - 2007 permits to operate and owes One Thousand Three Hundred Thirty-Two Dollars and  
26 Forty-Four Cents (\$1,332.44) for the current November 1, 2007 until November 1, 2008 permit  
27 to operate.

28 The Hearing Board finds that Respondent has a history of non-compliance.

1           **THEREFORE, pursuant to Sections 42451(a) and 42452 of the California Health**  
2           **and Safety Code, THE HEARING BOARD of the BAY AREA AIR QUALITY**  
3           **MANAGEMENT DISTRICT hereby ORDERS:**

4           1.       That the APCO's Request for a Conditional Order For Abatement shall be and  
5           hereby is GRANTED as follows: Masood Amini-Filabad, *aka* Amini Filabad and Hamid Amini,  
6           individually and *d/b/a* Livermore Beacon, Respondent in this matter, is hereby ordered to cease  
7           and desist immediately from operating the GDF until Respondent pays all outstanding permit to  
8           operate fees in the amount of Five Thousand Three Hundred Sixty Dollars and Twenty-Four  
9           Cents (\$5,360.24) in the form of a cashier's check, made payable to the Bay Area Air Quality  
10          Management District.

11          2.       That the District shall obtain the Facility's actual annual gasoline throughput  
12          information for the period of 2003 - 2008 from the California Franchise Tax Board, State Board  
13          of Equalization and/or other appropriate State agency or agencies.

14          3.       That the Hearing Board shall retain jurisdiction of this matter for a period of three  
15          years from the effective date of this Order.

16          4.       That upon Respondent having paid all outstanding permit to operate fees listed in  
17          Paragraph 1 above, the District shall submit to the Hearing Board a report, in writing, to confirm  
18          that such payment was made and that Respondent is allowed to reopen the Facility and  
19          recommence gasoline dispensing operations.

20          5.       That beginning as of the effective date of this Order, and for three years  
21          thereafter, Respondent shall submit to the Hearing Board an annual report, in writing, each year  
22          on the status of his payment of the District permit to operate fees for that permit year.

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1           6.       That this Order shall become effectively immediately upon the filing of this Order  
2 and shall be served upon Respondent immediately thereafter.

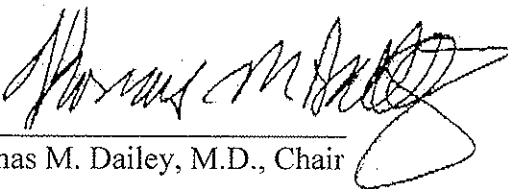
3           Moved by:       Christian Colline, P.E.

4           Seconded by:    Julio Magalhães, Ph.D.

5           AYES:           Valerie Armento, Esq., Christine Colline, P.E., Richard Grundy,  
6                               Julio Magalhães, Ph.D., and Thomas M. Dailey, M.D.

7           NOES:           None

8           ABSTAINED:    None

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11                               \_\_\_\_\_  
12           Thomas M. Dailey, M.D., Chair

3-21-08